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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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SOMPO JAPAN INSURANCE COMPANY OF : **ECF CASE**
AMERICA, :

Plaintiff, : **07 Civ. 4053 (DAB)**
- against - :

NIERODA TRANSPORT, INC. : **DECLARATION IN SUPPORT**
:
Defendant. : **OF PLAINTIFF'S REQUEST**
:
: **FOR ENTRY OF DEFAULT**

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I, DAVID T. MALOOF, do hereby declare:

1. I am a member of the Bar of this Court and am a partner in the firm of Maloof, Browne, & Eagan, LLC, attorneys for Plaintiff in the above-entitled action and I am familiar with all the facts and circumstances in this action.

2. I make this declaration pursuant to Local Rule 55.1 and Fed. R. Civ. P., 55(a), in support of plaintiff's application for the entry of a default against Nieroda Transport Inc. ("Nieroda").

3. This is an action to recover \$47,500.00 owed by the Defendants to Plaintiff for cargo which was damaged while in their custody.

4. Jurisdiction of the subject matter of this action is based on 28 U.S.C. 1337(a), 28 U.S.C. §1331, 49 U.S.C. §14706 and 28 U.S.C. §1367.

5. This action was commenced on May 23, 2007 by the filing of the summons and complaint. (See Exhibits A and B attached hereto).

6. A copy of the summons and complaint was served on the Defendant Nieroda on May 30, 2007 by personal service on Jenny Reed, an authorized person, at its place of business located at 428 Hayden Station Rd., Windsor, Connecticut (see Exhibit C).

7. Said personal service in Connecticut on Defendant Nieroda was accomplished on May 30, 2007 by a person authorized to serve the summons and complaint under Fed. R. Civ. P. 4(c) (Exhibit C).

8. An original return of service for Defendant Nieroda was filed in Court on August 15, 2007 as noted in the Clerk's Civil Docket (Exhibit D).

9. The answer of Defendant Nieroda was due on June 19, 2007. No such answer or motion was served or filed by such date, and therefore the time for said Defendant to answer the complaint has expired. Defendant Nieroda has neither appeared, answered or otherwise defended, and is accordingly now in default. Fed. R. Civ. P. Rule 55.

10. Since the defaulting Defendant Nieroda has not appeared, no service of this request on them is required, pursuant to Fed. R. Civ. P. 5(a).

11. Accordingly, Plaintiff hereby requests that the Clerk note and enter the above described default of the said Defendant Nieroda on the Civil Docket of this action, pursuant to Fed. R. Civ. P. 55(a).

12. The Defendant Nieroda is a corporation and therefore not an infant, in the military or an incompetent.

I declare under penalty of perjury under the laws of the United States of America that

the foregoing is true and correct.

Executed this 15th day of August at Rye, New York.



David T. Maloof

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